

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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GOVERNMENT EMPLOYEES INSURANCE
COMPANY, GEICO INDEMNITY COMPANY,
GEICO GENERAL INSURANCE COMPANY,
and GEICO CASUALTY COMPANY,

Plaintiffs,

MEMORANDUM AND ORDER

v.

20-CV-6052 (RPK) (SJB)

SONIA ARMENGOL, M.D., ARMENGOL
MEDICAL, P.C., BEST EMPIRE MEDICAL,
P.C., and ARMEN MEDICAL, P.C.,

Defendants.

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RACHEL P. KOVNER, United States District Judge:

Plaintiffs Government Employees Insurance Company, GEICO Indemnity Company, GEICO General Insurance Company, and GEICO Casualty Company (collectively, “GEICO”) filed this action against defendants Sonia Armengol, M.D., Armengol Medical, P.C., Best Empire Medical, P.C., and Armen Medical, P.C. *See* Compl. (Dkt. # 1). GEICO alleged that defendants engaged in improprieties when submitting claims under New York’s no-fault insurance law. Bringing claims for fraud and unjust enrichment, GEICO sought money damages and a declaratory judgment that defendants “have no right to receive payment for any pending bills submitted to GEICO” under the names of the defendants. *Id.* ¶¶ 342-49, 350-62, 371-83, 392-404, 413-25. Defendants did not appear. GEICO filed a motion for default judgment, which was referred to Magistrate Judge Sanket Bulsara. *See* Dkt. # 26.

Judge Bulsara issued a report and recommendation (“R. & R.”) recommending that (1) the defendants be found liable on GEICO’s common law fraud claim; (2) GEICO be awarded compensatory damages of \$625,196.38 plus prejudgment interest at a rate of 9% per year, to be

calculated by the Clerk of Court from the dates indicated in an accompanying chart; (3) GEICO's unjust enrichment claim be dismissed; and (4) GEICO's request for declaratory judgment be denied. *See* R. & R. 26-27.

GEICO filed a timely partial objection. *See* Pls.' Objection, in Limited Part, to the January 19, 2022 Report and Recommendation (Dkt. # 31) ("Objection"). GEICO objects only to Judge Bulsara's recommendation that GEICO be denied a declaratory judgment. *Id.* at 30.

Those parts of an R. & R. that are uncontested or are not properly objected to are reviewed, at most, for "clear error." *Alvarez Sosa v. Barr*, 369 F. Supp. 3d 492, 497 (E.D.N.Y. 2019) (citation omitted); *see Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985) (citing Fed. R. Civ. P. 72 advisory committee's note to 1983 addition). Clear error will only be found if after reviewing the entire record, the court is "left with the definite and firm conviction that a mistake has been committed." *United States v. Bershchansky*, 788 F.3d 102, 110 (2d Cir. 2015) (citation omitted). If a party timely objects to a magistrate judge's recommendation on a dispositive issue, then the district court must "determine de novo" those parts of the ruling that have been "properly objected to." Fed. R. Civ. P. 72(b)(3); *see* 28 U.S.C. § 636(b)(1).

I have reviewed the uncontested portions of Judge Bulsara's opinion and, having found no clear error, adopt those portions. The declaratory judgment argument that GEICO presses in its objection was minimally developed in GEICO's initial motion for default judgment. *See* Notice of Mot. for Default J., Mem. in Supp. of Pls.' Mot. for Default J. 8-10 (Dkt. # 26-12). Because GEICO's thirty-page objection substantially expands upon those arguments, I decline to consider the expanded arguments in the first instance. Accordingly, GEICO's request that the R. & R. be modified to grant GEICO a default declaratory judgment is denied without prejudice to GEICO's filing a second default judgment motion raising GEICO's declaratory judgment arguments.

The uncontested portions of Judge Bulsara's R. & R. are adopted. GEICO's request for a default declaratory judgment is denied without prejudice to GEICO's filing a second default judgment motion renewing that request.

SO ORDERED.

/s/ Rachel Kovner
RACHEL P. KOVNER
United States District Judge

Dated: February 11, 2022
Brooklyn, New York